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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,064	11/02/2005	Andreas Schmidt	071308.1124 (2002P10550WO)	7573
31625	7590	09/17/2008	EXAMINER	
BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039			TORRES, MARCOS L	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/523,064	Applicant(s) SCHMIDT ET AL.	
	Examiner MARCOS L. TORRES	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7-21-08 has been entered.

Response to Arguments

2. Applicant's arguments filed 7-21-08 have been fully considered but they are not persuasive.

3. Regarding applicant's arguments directed to the combination of the references; as previously shown in the rejection in record Alperovich the primary reference discloses and suggest the use of other than the recognizable MSISDN number (see col. 6, lines 15-20), it will be obvious than using other number will not be easily recognizable by the user, but the reference does not explicitly state that the message is anonymous. In another analogous art, Bedingfield discloses sending and receiving anonymous messages (see par 0062-0067), which is also in the admitted prior art in par. 0009. One of the ordinary skills in the art would recognize that independently of the identifiers used [anonymous or not] the method bring the same predictable result of adding an identifier to rejection list and rejecting the message. Thereby, it would have been obvious to one

of the ordinary skill in the art at the time of the invention for the simple purpose of getting the same predictable result.

4. Also, applicant also asserts that Alperovich fails to disclose the transmission of the message with an identification signal; however, it is noted that Alperovich discloses that the message is transmitted with the MSISDN number (see col. 3, lines 31-34) [or other identifier as suggested by Alperovich in col. 6, lines 15-20]. Therefore, the combination of Alperovich and Bedingfield still disclose the new limitation. Additionally, Bedingfield also disclose sending an identification signal [envelope information see par. 0062-0067].

5. Regarding applicant's arguments that because it appears that the update of the Alperovich list is independent of any received message from the sender, he fails to teach receiving a request from the recipient to the service provider, including the identification signal; it is noted that the presents claims do not require that the receiving a request from the recipient is in response to a received message. At the same time, it would be obvious that the rejection list is going to be build as the junk messages are received [note this is the same way as a rejection list is commonly build for emails].

6. As to applicant arguments that in Bedingfield only discloses blocking all the messages from any anonymous subscriber; first, the paragraph 0067 that the applicant uses to support his position recite "that a recipient **may** reject or block an anonymous message..." ; second, in par. 0063 recite the user receiving and screening the anonymous messages.

7. The rest of the arguments they fall for the same reasons as shown above.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 23-28, 30-36 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich US006101393A in view of Bedingfield 20020110227.

As to claim 23, Alperovich discloses a method for blocking undesirable messages in a mobile radio system (see col. 1, lines 7-10), the method comprising: receiving an anonymous message and identification signal from a sender at a service provider (see col. 3, lines 37-45); and transmitting the message from the service provider to a recipient serviced by the service provider (see col. 3, lines 50-66); receiving a request from the recipient to the service provider, the request comprising at least the identification signal if the recipient wants to have the sender of the message put on a list of exclusions; and adding the sender to the list of exclusion based at least on the identification signal (see col. 5, lines 51-66). Alperovich discloses that other alternatives names can be used (see col. 6, lines 15-20), however it is unclear if with the use of those alternative names the user can still identify the sender. In an analogous art Bedingfield discloses wherein the service provider transmits the message anonymously to the recipient and receives notification if the recipient wants to have the sender of the message put on a list of exclusions wherein the identification signal includes a reference to a storage location of a message identification element [envelope information] (see par 0062-0067). Therefore, it would be obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings to properly route and treat all messages according to their respective setting, thereby blocking undesirable message while keeping the anonymity of the sender (par. 0007).

As to claim 24, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the list of exclusions is managed by the service provider (see col. 5, lines 22-25).

As to claim 25, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the list of exclusions is a personal, individual list of exclusions of the recipient (see col. 6, lines 7-9).

As to claim 26, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the list of exclusions is a general list of exclusions that is taken into consideration for at least one of all recipients and groups of recipients (see col. 6, lines 7-10).

As to claim 27, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the request sent to the service provider includes to the service provider is formed as a self-contained abstract message (message that contain the "identification signal" (name of sender); see col. 5, lines 51-66).

As to claim 28, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the identification signal sent to the service provider is integrated in the abstract message in the information element form (message that contain the "identification signal" (name of sender); see col. 5, lines 51-66).

As to claim 30, Alperovich discloses a method for blocking undesirable messages in a mobile radio system wherein the request sent to the service provider contains further information for the filter functionality, including at least a type of the list of exclusions and time limitations (see col. 5, lines 22-50; col. 6, lines 7-9).

Regarding claims 31-36, 38 and 40, they are the corresponding system claims of method claims 23-28, 30 and 39. Therefore, claims 31-36, 38 and 40 are rejected for the same reasons shown above.

As to claim 39, Alperovich discloses a method for blocking undesirable messages in a mobile radio system (see col. 1, lines 7-10), the method comprising: receiving a message from a sender at a service provider (see col. 3, lines 37-45); transmitting the message and a identification signal from the service provider to a recipient serviced by the service provider, the identification signal comprising an alias [alternative] name for the sender (see col. 3, lines 50-66; col. 6, lines 15-20), and receiving a request from the recipient to add the sender to a list of exclusions, wherein the request comprises at least the identification signal; and based at least on the identification signal , adding the sender to the list of exclusion (see col. 5, lines 51-66). It is unclear in the Alperovich reference if using the alternative name still identifies the sender (see col. 5, line 51 -col. 6, line 20). In an analogous art, Bedingfield disclose receiving notification at the service provider if the recipient wants to have the sender of the message put on the list of exclusions, wherein the notification to the service provider contains the alias [alternative] name as an identification signal. Therefore, it would be obvious to one of the ordinary skill in the art at the time of the invention to combine these teachings to properly route and treat all messages according to their respective setting, thereby blocking undesirable message while keeping the anonymity of the sender (par. 0007).

12. Claims 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alperovich in view of Bedingfield and further in view of Rooke US 20020044634A1.

As to claim 29, Alperovich discloses the method for blocking undesirable messages in a mobile radio system wherein the identification signal to the service provider is contained in user data of Message (see col. 5, lines 51-66). Alperovich does not specifically disclose that the message is a Multimedia Message. In an analogous art, Rooke discloses sending a Multimedia Message to send a notification to the service provider (see par. 0041-0043). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention to use a Multimedia Message to send the notification to the service provider in order to be compatible with the MMS standard.

Regarding claim 37 is the corresponding system claim of method claim 29. Therefore, claim 37 is rejected for the same reason shown above.

Conclusion

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for formal communication intended for entry, informal communication or draft communication; in the case of informal or draft communication, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

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Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCOS L. TORRES whose telephone number is (571)272-7926. The examiner can normally be reached on 9:30 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-252-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marcos L Torres/
Examiner, Art Unit 2617

/George Eng/
Supervisory Patent Examiner, Art Unit 2617